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AUG 13 2014

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS)

COUNTY OF BEAUFORT)

FOURTEENTH JUDICIAL CIRCUIT)

CASE NO.: 2014-CP-07-0238)

SC Court of Appeals

JOSEPH C. SUN,)

Plaintiff,)

ORDER GRANTING PLAINTIFF'S)

MOTION TO DISMISS)

vs.)

(with prejudice))

MARSHALL L. HORTON AND)

RICHARD ULBRICH,)

Defendants.)

2014 JUL 11 PM 12:36
CLERK OF COURT
BEAUFORT COUNTY, S.C.

This matter came before the Court on April 23, 2014, pursuant to the Defendant's Motion to Dismiss and Motion for Sanctions filed February 12, 2014. Present at the current hearing was the Plaintiff Joseph Sun, *pro se*; Gregory M. Galvin, Esq., attorney for Marshall L. Horton; and Lindsay Y. Goodman, Esq., attorney for Richard Ulbrich.

Plaintiff filed his Summons and Complaint on February 3, 2014 and Defendants served their timely Answer and Counterclaim on February 10, 2014. The issues brought up in Plaintiff's Complaint concern Mr. Horton's service as a court appointed private Guardian *ad Litem* in the case captioned *Liling Xie Sun v. Joseph C. Sun*, case no. 2011-DR-07-1823. Mr. Ulbrich is made a party to this action solely for his actions as serving as a process server for Mr. Horton in effecting service of a signed court order on Plaintiff.

Notice of this current hearing was provided to the Plaintiff via regular U.S. Mail sent on March 7, 2014. All pleadings and motions have been properly served.

At the April 23, 2014 hearing, referenced to various court orders from case no. 2011-DR-07-1823 were made and the Court was not in possession of these various orders, thus the Court

asked the Defendants to present affidavits attaching these Orders within twenty days of this current hearing. Defendants asked for an extension of time to compile these affidavits, and this Court granted this extension. All affidavits and Orders have been timely provided to this Court.

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

1. That the Plaintiff is a resident of Beaufort County, South Carolina. The Defendants are both residents of Beaufort County, South Carolina.
2. This current dispute concerns only Mr. Horton's actions (and Mr. Ulbrich's serving a court order on behalf of Mr. Horton) as a court appointed private Guardian *ad Litem* in the case of *Liling Xie Sun v. Joseph C. Sun*, case no. 2011-DR-07-1823.
3. That this Honorable Court has jurisdiction over all matters herein, and venue is proper.
4. Mr. Horton was appointed Guardian *ad Litem* by in case number 2011-DR-07-1823 by order dated March 20, 2012 by the Honorable Alvin Johnson. This Order was by consent of all the parties
5. In review of the pleadings, all challenges to Mr. Horton's activities as Guardian *ad Litem* should be (or should have been) made in case number 2011-DR-07-1823. This includes any issues with Mr. Horton's final accounting for Guardian *ad Litem* charges. This Court does not have jurisdiction to act as an appellate court for the Beaufort County Family Court, which is in essence what Plaintiff Sun seeks in this suit. This also includes claims against Mr. Ulbrich, as Mr. Ulbrich's role was only as Mr. Horton's agent for the purposes of service of a court order.
6. To the extent that it is necessary, this Court acknowledges that private a Guardian *ad Litem* enjoys quasi-judicial immunity by virtue of the South Carolina Supreme Court ruling in

Fleming v. Asbill, 483 S.E.2d 751, 326 S.C. 49 (S.C. 1997), and all of the claims set forth by Mr. Sun are barred under *Fleming*.

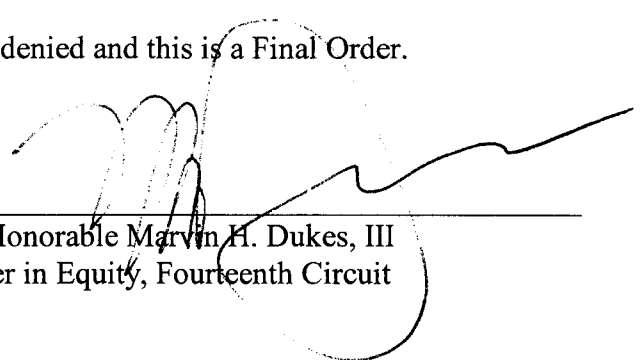
7. Mr. Ulbrich's involvement in this action as a process server is unclear from the Complaint but has been clarified by the requested affidavits. As for Mr. Ulbrich I find that he acted only as Mr. Horton's, the Guardian *ad Litem*, agent and thus I grant summary judgment as to the claims against him.

8. As such, this Court finds that there are no causes of action set forth in the Plaintiff's complaint to which would allow the Plaintiff to recover from either Defendant.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

- A. Plaintiff's complaint is dismissed, with prejudice; and
- B. Defendants' claims for sanctions is denied; and
- C. All outstanding motions are hereby denied and this is a Final Order.

AND IT IS SO ORDERED



The Honorable Marvin H. Dukes, III
Master in Equity, Fourteenth Circuit

Beaufort, South Carolina

7/11, 2014